

## REMARKS

Claims 1, 3-5, 7, 8, 13 and 17-20 are pending in the application. It is gratefully acknowledged that Claims 13 and 17-20 remain allowed. The Examiner has rejected Claims 1 and 5 under 35 U.S.C. §103(a) as being unpatentable over Decker (U.S. Patent 6,195,338) in view of 3GPP TS 25.302 (TS 25.302). The Examiner has rejected Claims 1, 3 and 4 under 35 U.S.C. §103(a) as being unpatentable over Dupont (U.S. Patent 5,729,542) in view of TS 25.302. The Examiner has rejected Claims 5, 7 and 8 under 35 U.S.C. §103(a) as being unpatentable over Dupont in view of Parsa et al. (U.S. Patent Publication 2004/0081115).

Please amend Claims 1 and 5 as set forth herein. No new matter has been added.

The Examiner has possibly alluded to a rejection of Claims 3, 4, 7 and 8 under Decker and TS 25.302. M.P.E.P. 707.07(d) requires that proper language is to be used in rejecting claims. This language was in fact not used. MPEP 707.07(d) also requires that statutory grounds for each rejection must be expressly referenced. No statutory grounds for these alleged rejections are expressly referenced. Therefore, the alleged rejections are improper.

The Examiner rejected independent Claims 1 and 5 under §103(a) as being unpatentable over Decker in view of TS 25.302. Decker discloses a method for setting the persistence of a mobile station in a cellular mobile radio network; and, TS 25.302 discloses services provided by the physical layer. The Examiner has also rejected Claim 1 under §103(a) as being unpatentable over Dupont in view of TS 25.302. Dupont discloses a method and apparatus for communication system access. The Examiner has also rejected Claim 5 under §103(a) as being unpatentable over Dupont in view of Parsa et al. Parsa et al. discloses a hybrid DSMA/CDMA method with collision resolution for packet communications.

Each of Claims 1 and 5 has been amended, as set forth below, to more clearly recite counting the number of the access preambles detected in an access preamble period having a predetermined period for each transport format of a plurality of different transport formats, each

transport format contains information related to an amount of transmission data and a data rate of each transport format, and wherein the persistence value is determined based on the amount of transmission data and the data rate of each transport format.

None of the cited references, namely Decker, TS 25.302, Dupont or Parsa et al., teaches or discloses counting access preambles for each transport format of a plurality of different transport formats, or that the persistence value is determined based on the amount of transmission data and the data rate of each transport format.

The following points are presented to assist the Examiner in withdrawing the rejections.

Decker teaches that a receiving unit in a mobile radio network or a base station estimates the offered traffic by measuring the number of successful access  $NS(i)$ . The traffic is then differentiated in accordance with the different priorities. See Decker at col.2, lines 44-56.

In addition, Decker discloses calculating load characteristic variables  $p(i)$  by considering the number of successful access  $NS(i)$  estimated in accordance with its different priorities. That is, referring to the relation formulas disclosed from col. 2 line 49 to col. 3 line 35, it is apparent that the number of successful access  $NS(i)$  measured in accordance with the different priorities is considered.

Claim 1 limits its counting to the number of access preambles detected in an access preamble period having a predetermined period for each transport format, determining the persistence value based on the number of counted access preambles for each transport format, and transmitting the determined persistence value to the UEs in a cell controlled by a base station.

First, Decker only teaches measuring successful accesses  $NS(i)$  in accordance with its priorities, but does not teach counting the number of the access preambles detected in accordance with its transport format, as set forth in the claims of the present application.

Decker does not explicitly teach any relation between the priorities and transport format.

There is no disclosure of the relation of priorities and transport format, and can not be derived by one having ordinary skill in the art.

Accordingly, it is clear that Decker does not teach or suggest counting the number of the access preambles detected **in accordance with its transport format.**

Second, Decker does not disclose each transport format containing information related to an amount of transmission data and a data rate. The Examiner admits to this position. The Examiner states that TS 25. 302 teaches that each transport format containing information is related to an amount of transmission data and a data rate.

TS 25. 302 discloses transport format is divided into “Attributes of the dynamic part” and “Attributes of the semi-static part”. In addition, TS 25. 302 discloses that “Attributes of the dynamic part” contains “Transport Block Size”, “Transport Block Set Size”, and “Type of error protection”, and “Attributes of the semi-static part” contains “Type of error protection”, “Coding rate”, “Static rate matching parameter”, and “Puncturing limit for uplink”.

“Transport Block Size” and “Transport Block Set size” are being equated to the amount of transmission data, and “Coding rate” and “Static rate matching parameter” are being equated a data rate.

However, it is already an established fact that the transport format contains information related to an amount of transmission data and a data rate.

The Examiner insists that Claim 1 would have been obvious to one having ordinary skilled in the art considering a composition disclosed in Decker with limitations related to transmission block disclosed in TS 25. 302. As shown in the above comments, Decker does not disclose or suggest a transmission block. That is, in order to insist that it is easy to combine the limitation related to transmission block disclosed in TS 25. 302 with the composition disclosed in Decker, any disclosure which can show the obviousness of the combination must be shown in Decker or TS 25. 302 and is

not.

Accordingly, there is no motivation to combine Decker and TS 25. 302.

Based on at least the foregoing, withdrawal of the rejection of independent Claims 1 and 5 under §103(a) is respectfully requested.

Independent Claims 1 and 5 are believed to be in condition for allowance. Without conceding the patentability per se of dependent Claims 3, 4, 7 and 8, these are likewise believed to be allowable by virtue of their dependence on their respective amended independent claims. Accordingly, reconsideration and withdrawal of the rejections of dependent Claims 3, 4, 7 and 8 is respectfully requested.

Accordingly, all of the claims pending in the Application, namely, Claims 1, 3-5, 7, 8, 13 and 17-20, are believed to be in condition for allowance. Should the Examiner believe that a telephone conference or personal interview would facilitate resolution of any remaining matters, the Examiner may contact Applicant's attorney at the number given below.

Respectfully submitted,



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